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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/524,663	02/11/2005	Kenji Yasuda	265999US3PCT	1513
22850	7590	07/12/2007		
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			EXAMINER ARCHIE, NINA	
			ART UNIT 1645	PAPER NUMBER
			NOTIFICATION DATE 07/12/2007	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/524,663	Applicant(s) YASUDA ET AL	
	Examiner Nina A. Archie	Art Unit 1645	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 June 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) 2-9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>2/11/2005</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

1. Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d).
2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Drawings

3. The drawings in this application have been accepted. No further action by Applicant is required.

Information Disclosure Statement

4. The information disclosure statement filed on 2/11/2005 has been considered. An initialed copy is enclosed.

Election/Restrictions

5. Applicant's election with traverse of Group 1, claims 1, in the reply filed on 6/18/07 are acknowledged. The traversal is on the ground(s) that it MPEP § 803 states: If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions and that the claims of the present invention would appear to be part of an overlapping search area, and that a search and examination of the entire application would not place a serious burden on the Examiner. This is not found persuasive because the application is a 371 of PCT/JP03/10574. The U.S.C. 371 applications correspond to 37 CFR 1.499 for unity of invention during the national stage and PCT Rule 13. Therefore as stated before, this application contains the following inventions or groups of inventions, which are not so linked as to form a single general inventive concept under PCT Rule 13.1. In accordance with 37 CFR 1.499, applicant is

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required, in reply to this action, to elect a single invention to which the claims must be restricted. Group I, claim 1, is drawn to an inspection apparatus. Group II, claims 2-9, are drawn to an inspection method of use of inspection apparatus. The inventions listed as Groups I-II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical feature. Groups I and II have acquired a separate search in the art as a separate subject for inventive effect and required independent searches. The search for each of the inventions is not coextensive particularly with regard to the literature search. A reference which would anticipate one group, would not necessarily anticipate or make obvious any of the other groups. The reference disclosed in the Restriction on 7/21/2006 teaches the special technical feature.

Claims 2-9 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to nonelected Group II, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 6/18/07.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by MacCaskill et al US 20020028504A1 Date March 7, 2002.

The claim is drawn to an inspection apparatus for cell reaction, which is composed of a device for liquid processor comprising a plate-shaped base material, a plurality of first micro conduits extending in a first direction and a plurality of second

micro conduits extending in a second direction different from the first direction, which are formed in the base material, micro spaces formed at respective intersections of the first micro conduits and second micro conduits, a valve provided in each of the respective microconduits linked to the micro spaces, for opening and closing the micro conduit, and a valve control mechanism for controlling each of the valves between closed and opened states, wherein the apparatus is used in an inspection of a cell reaction, in which a liquid medium necessary for survival of living cells is fed through one of microconduits linked to a selected micro space, in which the living cells are placed, and a test liquid containing a cell stimulator is fed through another micro conduit linked to the micro space to inspect a cell reaction caused by the test liquid.

MacCaskill et al teaches inspection apparatus (microreactor) (see [0006]) which is composed of a device for liquid processor comprising a plate-shaped base material, a plurality of first micro conduits extending in a first direction and a plurality of second micro conduits extending in a second direction different from the first direction, which are formed in the base material, micro spaces formed at respective intersections of the first micro conduits and second micro conduits (see [0003-0014], a valve (blocking element) (see [0018]) provided in each of the respective micro conduits linked to the micro spaces, for opening and closing the micro conduit, and a valve control mechanism for controlling each of the valves between closed and opened states (see abstract, summary of the invention, [0018], [0027]-[0028]) .

Regarding the recitation inspection apparatus “for a cell reaction”, “wherein the apparatus is used in wherein the apparatus is used in an inspection of a cell reaction, in which a liquid medium necessary for survival of living cells is fed through one of microconduits linked to a selected micro space, in which the living cells are placed, and a test liquid containing a cell stimulator is fed through another micro conduit linked to the micro space to inspect a cell reaction caused by the test liquid” said recitation is considered an intended use and thus is given no patentable weight on the apparatus. Therefore the claims are drawn to an inspection apparatus.

Status of the Claims

7. Claim 1 is rejected.
No claims are allowed.

Conclusion

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nina A. Archie whose telephone number is 571-272-9938. The examiner can normally be reached on Monday-Friday 8:30-5:00p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner supervisor, Jeffrey Siew can be reached on 571-272-0787. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Nina A Archie



MARK NAVARRO
PRIMARY EXAMINER

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